

CITY OF SAN JOSÉ, CALIFORNIA  
 Department of Planning, Building and Code Enforcement  
 801 North First Street, Room 400  
 San José, California 95110-1795

Hearing Date  
 H.L.C. 11/5/03

Agenda Number  
 Item 4.a.

File Number  
 MA03-002

Application Type  
 Historic Property Contract

Council District  
 3

Planning Area  
 Central

Assessor's Parcel Number(s)  
 467-46-030

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: Sally Notthoff Zarnowitz

Location: East Side of South First Street, approximately 610 feet southerly of San Fernando Street

Gross Acreage: 0.20

Net Acreage: 0.20

Net Density: n/a

Existing Zoning: CG Commercial General

Existing Use: Mixed-Use, Residential/Commercial

Proposed Zoning: No change

Proposed Use: No change

### GENERAL PLAN

Completed by: SNZ

Land Use/Transportation Diagram Designation: CORE

Project Conformance:  
☒ Yes   ☐ No  
☐ See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: SNZ

North: Commercial

CG Commercial

East: Commercial

CG Commercial

South: Commercial

CG Commercial

West: Commercial

Commercial

### ENVIRONMENTAL STATUS

Completed by: SNZ

☐ Environmental Impact Report found complete  
☐ Negative Declaration circulated on  
☐ Negative Declaration adopted on

☒ Exempt  
☐ Environmental Review Incomplete

### FILE HISTORY

Completed by: SNZ

Annexation Title: Original City

Date: 3/27/1850

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☐ Approval  
☒ Approval with Conditions  
☐ Denial  
☐ Uphold Director's Decision

Date \_\_\_\_\_

Approved by: \_\_\_\_\_

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APPLICANTS

Howard Klein  
DeLoitte & Touche LLP  
350 So. Grand Avenue, Suite 200  
Los Angeles, CA 90071

## OWNERS

Kelly Eppich  
CIM/Twohy, LLC  
6922 Hollywood Blvd., Suite 900  
Hollywood, CA 90028

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PUBLIC AGENCY COMMENTS RECEIVED

Completed by: SNZ

Department of Public Works

None

Other Departments and Agencies

See attached Department of Parks and Recreation Form

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GENERAL CORRESPONDENCE

None

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ANALYSIS AND RECOMMENDATIONS

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**BACKGROUND**

The applicant, Deloitte & Touche LLP on behalf of the owner, CIM/Twohy LLC is requesting a Historic Property Contract to allow property tax relief to rehabilitate and maintain the Twohy Building, City Landmark No. HL01-134, located on the East Side of South First Street, southerly of San Fernando Street at 200-210 South First St..

The site is zoned CG Commercial General and is designated Core Area on the adopted San Jose 2020 Land Use and Transportation Diagram. The subject site is surrounded by commercial development. The City Council adopted its Resolution No. 70639 thereby declaring and designating the Twohy Building as a Historic Landmark on October 2, 2001. The designation was based upon the building's representation of downtown San Jose's growth southward under the initiative of T.S. Montgomery during the pre-World War I years, its embodiment of the distinguishing characteristics of Renaissance Revival architecture, and its identification as the work of well-known local architect William Binder. The building is a five-story structure with commercial space on the ground level and apartments on the upper floors. A Historic Preservation Permit (HP02-017) was approved for the rehabilitation work.

**ENVIRONMENTAL REVIEW**

Under the provisions of Section 15331 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is found to be exempt from environmental review in that the project is limited to the rehabilitation of a historical resource in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (1995), Weeks and Grimmer.

## GENERAL PLAN CONFORMANCE

The proposed Contract conforms to the San Jose 2020 General Plan Land Use/Transportation Diagram designation of Core Area which encourages mixed use projects where residential uses are located above commercial uses at the street level. The proposed contract is also in conformance with the General Plan Historic, Archaeological and Cultural Resources Goals and Policies, which encourage the continuation and appropriate expansion of Federal and State programs which provide tax and other incentives for the rehabilitation of historically or architecturally significant structures.

## ANALYSIS

The Historic Landmark Preservation Agreement is an incentive for ownership of City Landmarks. It is a contract between the City of San Jose and the owner of a designated City Landmark which allows the owner to enjoy a reduced property tax rate from the County Assessor in exchange for the preservation, and in some cases restoration and rehabilitation, of the owner's historic property. The purpose of the agreement is to provide greater protection for the City Landmark property than is otherwise provided by the historic preservation regulations in the City Municipal Code. The County Assessor sets the property tax rate based on an appraisal of the market value of the land and improvements. A property under contract will receive a property tax reduction based on an appraisal of the rental value of the land and improvements.

### 1. Required Provisions of Historic Property Contracts

Municipal Code Chapter 13.48 requires provisions of Historic Property Contracts as follows

- A. A description of the Landmark Property subject to the Contract;
- B. A provision that the term of the Contract is a minimum period of ten years;
- C. Specific conditions requiring preservation of the Landmark Property and, where appropriate, restoration and rehabilitation of the Landmark Property to conform to the requirements of the City, and the rules and regulations of the Office of Historic Preservation of the State of California Department of Parks and Recreation;
- D. Provision for the periodic examination of the interior and exterior of the Landmark Property by the City of San Jose, Santa Clara County Assessor, and the State Board of Equalization as may be necessary to determine the owner's compliance with the Contract.
- E. A requirement that the property owner annually expend an amount equal to a minimum of 10% of the tax savings attributed to the Contract to the preservation and maintenance of the Landmark Property; and
- F. A provision that the Contract is binding upon and shall inure to the benefit of, all successors in interest of the owners; and that a successor in interest shall have the same rights and obligations under the Contract as the original owners who entered into the Contract.

In Addition to the Municipal Code provisions above State legislation requires the City Clerk to record a Historic Property Contract with the County Recorder by December 31 of any calendar year in order to be effective during the following calendar year.

## **2. Required Findings of Historic Property Contracts**

In accordance with Municipal Code Chapter 13.48, the City Council may approve a Historic Property Contract only if the following findings are made:

- A. The proposed Contract is consistent with the General Plan;
- B. The proposed Contract would provide greater protection for the Landmark Property than is otherwise provided by the provisions of Municipal Code Chapter 13.48; and
- C. The proposed Contract complies with the required provisions of Historic Property Contracts listed above.

## **RECOMMENDATION**

Planning staff recommends that the Historic Landmarks Commission recommend the City Council make the following findings and approve the proposed Historical Property Contract:

- A. The proposed Contract is consistent with the General Plan Land Use designation of Core Area because (1) the proposed office use is consistent with the Land Use/Transportation Diagram Designation of Core Area, and (2) the proposal encourages the continuation and appropriate expansion of Federal and State programs which provide tax and other incentives for the rehabilitation of historically or architecturally significant structures.
- B. The proposed Contract provides greater protection for the Landmark Property than is otherwise provided by the provisions of Municipal Code Chapter 13.48 because the owner, in partnership with the City, may use property tax relief to rehabilitate and maintain the property in accordance with the preservation plan, Exhibit "C".
- C. The proposed Contract complies with the required provisions of Historic Property Contracts listed above.

### **Attachments**

- ? Contract
- ? Dept. of Parks and Recreation Form
- ? Site Plan